

**Motor Carrier Group Chairman's Factual Report  
HWY-05-MH035**

**Attachment #12: FHWA/OMC Intrastate Violation Policy 10/02/1999  
(6 Pages)**



U.S. Department  
of Transportation  
Federal Highway  
Administration

# Memorandum

FP-FCA/FSR-92-1  
SP-91-017-SA

Subject: Collection of Intrastate Noncompliance  
Information during Safety and Compliance Reviews

Date: OCT 2 1991

From: Director, Office of Motor Carrier  
Field Operations

Reply to  
Attn. of:

HFO-10

To: Regional Directors, Office of Motor Carriers

On December 7, 1990 the decision was made to have State personnel, conducting Safety and Compliance Reviews under the MCSAP Program, enter both interstate and intrastate noncompliance information on review reports. This combined assessment was also to be used in completing the rating "input matrix" (MCS-151, Part D). At that time, the primary State review effort was in the area of safety reviews. The current direction of the program is to have States also conduct compliance reviews of both interstate and intrastate carriers, with the State and Federal activities virtually mirroring each other. In order to promote this thought, modifications to our data collection and compliance review procedures are necessary.

This action is in full accord with our stated goal of "full participation by States in OMC programs." It will help foster our partnership with the States and give all a better appreciation for the similarities and differences of our programs.

Since the Federal Highway Administration's (FHWA) primary concern deals with interstate motor carriers, it needs to be able to evaluate the compliance status of interstate operations separately from intrastate operations. State agencies however are primarily concerned with the intrastate operations of both interstate and intrastate motor carriers. In FHWA's management of all of its motor carrier responsibilities, including the MCSAP activities, it needs to know what part (inter/intra) of an interstate carrier's operation requires the compliance attention, and which part (Fed/State) of the overall program should handle it. In order to make this decision the operational areas of noncompliance must be identified.

As the FHWA partnership with the States matures, it becomes important to consider the information needs of each partner in order to maximize the effectiveness of the program as a whole. As such, there is a need to isolate the interstate and intrastate noncompliance information on compliance reviews. In view of this situation, the decision has been made to request both State and Federal enforcement personnel to enter interstate violations (49 CFR) and intrastate violations (State codes for the State of domicile only) on Part B of compliance reviews (MCS-151). Additionally, interstate and intrastate noncompliance information will be considered in completing the rating matrix (MCS-151, Part D) for both safety and compliance reviews, in order to reflect the safeness of the carrier's total operation on the highway.

In effecting this change, a number of concerns were raised regarding jurisdiction, training and the data collection process. The approach taken is to reaffirm that a compliance review (CR) report is a record provided to motor carriers to give them official notice, or knowledge, of the violations discovered. It is not a claim letter, or an indictment, and simply serves the same educational function as a safety review. FHWA will not initiate Federal enforcement of nonjurisdictional regulations, but will be identifying intrastate noncompliance when it is discovered. In this policy change, FHWA will be educating motor carriers regarding the intrastate requirements of their own State, in addition to the Federal requirements. In order to minimize any misunderstanding regarding noncompliance, it is necessary to separately identify the Federal (interstate) and the State (intrastate) violations by specific section numbers. The method to be used will require separate violation entries on Part B of the CR (MCS-151), and will be distinguished by adding an "F" (Federal/interstate) or an "S" (State/intrastate) to the violation "sequence" number. For intrastate violations, State section numbers will be shown in field #42 of the CR Part B, and the compatible Federal section number will be shown in field #41 (code number). An example of this procedure is shown on the attached Part B.

In a broader sense, the need exists for a subjective determination of whether State or Federal personnel should conduct a follow up review. This determination is actually more critical when conducting safety reviews since there is no delineation of interstate/intrastate noncompliance. The procedure developed to accomplish this is to enter the words "Follow up: S" or "Follow up: F" (State vs. Federal) in field #54 of the MCS-151 Part C. An example of this procedure is included in the attached Part C. In the case of safety reviews, the Federal/State staff person (who conducted the review) should make this determination. Regarding compliance reviews, the decision should be made by a Division level manager based on the violations detailed and whatever other information is pertinent.

The last major task, and possibly the most burdensome, is the training of both Federal and State reviewing personnel. Many State personnel are already familiar with the Federal requirements and section numbers, thus the training effort may be more focused toward determining interstate versus intrastate transportation. On the Federal side, each State Director/Officer-in-Charge will be responsible for identifying the compatible State regulation/citation for each of the FMCSRs and HMRs. Further, each staff member conducting SRs and CRs within the State must be trained/educated regarding the appropriate State violation sections to cite. The State MCSAP agencies may be of significant assistance in this effort. The FHWA staff will only need to be knowledgeable of the intrastate requirements of their own State in order to assist their MCSAP counterpart.

Implementation of this revised procedure is scheduled for November 1, 1991. Laptop software is being modified and will be forthcoming. Mainframe (MCMIS) computer programming is also being developed to adjust to this new procedure and to generate improved management reports. We recognize that this policy change is significant, and we welcome comments in order to further a common understanding of our goals. Please direct them to the Federal Programs Division, State Programs Division or Susan Petty.

Thank you in advance for your support in successfully implementing this new procedure.

  
Michael F. Trentacoste

Attachments

CC:HMT-1  
HPS-1  
HCS-1  
HIA-1  
HIA-10  
HFO-3  
HFO-10 (all staff)  
HFO-20  
HFO-30  
Tim Phillips, TS

FHWA:JKeenan/lds/61795/9/25/91  
Copies to:  
Reader 3408, FHWA-2-11  
lshannon/docs/Intra

SEQ	41. CODE NUMBER	42. SECTION NUMBER	43. NMBR DISCOVERED	44. NMBR CHECKED	45. DVRS/VHCLS
5F		395.3(a)(1)	3	270	1

REQUIRING OR PERMITTING A DRIVER TO DRIVE MORE THAN 10 HOURS.

2/14/91 - TONY SCHAFRO DROVE 12 HOURS

SEQ	41. CODE NUMBER	42. SECTION NUMBER	43. NMBR DISCOVERED	44. NMBR CHECKED	45. DVRS/VHCLS
6S	395.3(a)(1)	14-274	54	270	6

REQUIRING OR PERMITTING A DRIVER TO DA MORE THAN 12 HOURS.

2/16/91 - TONY SCHAFRO DROVE 15 HOURS

SEQ	41. CODE NUMBER	42. SECTION NUMBER	43. NMBR DISCOVERED	44. NMBR CHECKED	45. DVRS/VHCLS
7F		395.3(b)(1)	1	90	1

REQUIRING OR PERMITTING DRIVER TO DRIVE AFTER HAVING BEEN ON DUTY 70 HOURS.

2/14/91 - TONY SCHAFRO DROVE AFTER HAV. BEEN ON DUTY 74 HRS

SEQ	41. CODE NUMBER	42. SECTION NUMBER	43. NMBR DISCOVERED	44. NMBR CHECKED	45. DVRS/VHCLS
8S	395.3(b)(1)	14-274	33	90	7

REQUIRING OR PERMITTING DRIVER TO DRIVE AFT HAVING BEEN ON DUTY HOURS

2/16/91 - TONY SCHAFRO DROVE HOURS AFT HAVING BEEN ON DUTY 86 HOURS

46. RECOMMENDATIONS

RECEIVED BY: BOB TAILLE

TITLE: OPERATIONS MGR



US Department of Transportation  
Federal Highway Administration

**INTRA-AGENCY  
MEMORANDUM SAFETY/  
COMPLIANCE REVIEW**

**CARRIER/SHIPPER EVALUATION**

US DOT NO.

**51234**

DATE

**4/4/91**

PAGE **1** OF **0**

50. REASON FOR REVIEW (may circle more than 1)

- A. Initial Rating  
B. Complaint: No. \_\_\_\_\_  
☒ C. SCE Rating  
D. Enforcement Follow-up  
E. Carrier Request  
F. Caps Contact  
G. Other \_\_\_\_\_

51. PLANNED COURSE OF ACTION:  
(may circle more than 1)

- ☒ A. Compliance Monitoring  
B. Prosecution: No. \_\_\_\_\_  
C. Out-of-Service Order

52. 49 CFR

PARTS  
REVIEWED  
CERTIFICATION  
CR/SR/NA

A.	B.	C.	D.	E.	F.	G.	H.	I.	J.	K.	L.	M.	N.	O.	P.	Q.
325	383	387	390	391	392	393	394	395	396	397	398	399	171	172	173	177
CR	CR	CR	SR	CR	SR	SR	SR	CR	SR	CR	SR	SR	CR	CR	SR	CR

53. REPORTABLE ACCIDENT INFORMATION (Prior 365 Days)

- A. Total Reportable  
B. Total Preventable/Reportable  
C. Total Miles

**6**  
**4**  
**5,713,262**

55. SAFETY/COMPLIANCE REVIEWS

A. **SR-9/1/89**

B. \_\_\_\_\_  
C. \_\_\_\_\_

54. SPECIAL STUDIES CODE

**PLACARDS**  
**FOLLOWUP: S**

56. PROSECUTIONS

A. **N/A**  
B. \_\_\_\_\_  
C. \_\_\_\_\_

57. REMARKS:

**PRIMARILY INTRASTATE HAS OF SVC  
PROBLEM DUE TO COLD WEATHER.  
CARRIER SHIFTS INTRASTATE DRIVERS  
TO INTRASTATE OPERATION WHEN NEAR  
MAXIMUM HOURS.**

PRINCIPAL INVESTIGATOR: SIGNATURE

**I. C. AUL**

58. CODE NUMBER

US **007**

ASSISTANT INVESTIGATOR: SIGNATURE

\_\_\_\_\_

59. CODE NUMBER

US \_\_\_\_\_

MCS-151 SR/CR PART C (Rev. 9-90)

U.S. GPO: 1991-0-202-542-1104